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CLERK

MONTANA EIGHTH JUDICIAL DISTRICT COURT, CASCADE COUNTY

BARBARA A. GIBSON as Personal  
Representative of the ESTATE of JOHNNY G.  
GIBSON, and for herself, JOHN TRAVIS  
MORGAN GIBSON and DIXIE LEE GIBSON,

Plaintiffs,

v.

CENTRAL MONTANA COMMUNITY  
HEALTH CENTER, KIMBERLEE D.  
DECKER, DNP, APRN, FNP-BC, and DOES  
1-10,

Defendants.

Cause No. **BDV-17-0637**

**ELIZABETH A. BEST**

**COMPLAINT AND  
DEMAND FOR JURY TRIAL**

COME NOW the Plaintiffs, and for their Complaint in the above-captioned matter allege as follows:

1. Plaintiff Barbara A. Gibson is a citizen and resident of the state of Colorado. She is the Personal Representative of the Estate of her deceased husband, Johnny G. Gibson, also a named Plaintiff above. The Estate of Johnny Gibson is an open estate in the state of Colorado.
2. John Travis Morgan Gibson is a citizen and resident of the state of Colorado. He is the son of Johnny and Barbara Gibson.
3. Dixie Lee Gibson is a citizen and resident of the state of Colorado. She is the daughter of Johnny and Barbara Gibson.

4. Defendant Central Montana Community Health Center is a federally funded community center located in Lewistown, Montana.

5. Defendant Kimberlee D. Decker is a Nurse Practitioner who, on information and belief, lives and works in Lewistown, Montana, and previously provided medical services at the Central Montana Community Health Center.

6. Defendants DOES 1-5 are potential parties whose identities are not currently known that may share some liability for Plaintiffs' injuries.

#### **GENERAL ALLEGATIONS**

7. In May 2015, Plaintiff Barbara Gibson and her deceased husband, Johnny Gibson left the state of Colorado and traveled to Winifred, Montana for summer ranch work. Johnny occasionally suffered heartburn and chest pain particularly with physical exertion. In July and August 2015, he began having frequent episodes of exertional pain in his chest and abdomen and fatigue.

8. In August 2015, when Johnny was experiencing pain in his chest and upper abdomen and fatigue, Barbara took him to Defendant Central Montana Community Health Center where Johnny was seen by Defendant Kimberlee Decker, DNP. Nurse Practitioner Decker performed a "scan" of Johnny's torso area and gave him a prescription for hydrocodone, an opiod medication that is known to increase the risk of heart attack among people with heart disease. Later that day, Nurse Practitioner Decker told Johnny and Barbara that the scan was negative and that Johnny should take his medicine and that he could go home.

9. Driving back to Winifred, Barbara was driving and had to stop several times for Johnny to get out of the car and breathe because of his continued chest pain. The following week, Johnny's chest pain continued, his hands became ice cold, he was unable to ride in a vehicle

without getting out to walk and breathe. On a trip to Billings, September 21, 2015, Barbara and Johnny stopped at a truck stop because of his pain and called an ambulance which transported them to St. Vincent Hospital in Billings.

10. History at St. Vincent Hospital, in pertinent part, stated:

John G. Gibson is a 63 year old male who was brought to the ED by ambulance from Lockwood after he complained of chest pain of all day duration. The patient was found to have profound ST segment elevation across the precordium on EKG that was faxed to us prehospital, and I immediately activated the Cath Lab team for a STEMI response. I spoke with Dr. Terry, the cardiologist just as the patient arrived here. Patient said he had been having chest pain on and off for a year. He denied any prior cardiac diagnosis or cardiac workup. Patient had seen a doctor in Lewistown sometime recently [and] was treated with hydrocodone although I'm not sure if it was for the chest or some other complaint. Patient complained of feeling nauseated and short of breath.

11. Surgery was performed by Dr. Walter Graves on September 22, 2015. In his operative report, he noted, in pertinent part:

This is a 63 year old patient who had a one-year history of exertional chest pain but no diagnostic evaluations. Initially they were just occasional minor episodes that did not cause him to interrupt his activity. These however progressed and for the two months prior to this admission he was having frequent episodes. His work involved fencing on different branches through this summer. His extremely strenuous activity [sic] and finally he was no longer able to do the work. The symptoms continued to worsen and he was unable to even walk without precipitate dictating chest pain. The last two days he was becoming short of breath and could only speak one or two words at a time. The day of admission he had continuous unrelenting pain and sought medical attention in an emergency room. He was found to have market ST elevations consistent with an evolving myocardial infarction. In the cath lab [at] St. Vincent, he was found to have total occlusion of both his circumflex and LAD system. The right coronary had multilevel disease with ostial disease in both the PDA and PLB....

Dr. Graves performed a three-vessel coronary artery bypass. Johnny Gibson did not survive the surgery.

**COUNT I  
SURVIVAL ACTION FOR THE ESTATE  
NEGLECTANCE**

12. Plaintiffs incorporate all foregoing paragraphs herein as if fully set forth.

13. Defendants Central Montana Community Health Center and Kimberlee D. Decker, DNP, failed to properly evaluate and diagnose Johnny Gibson's heart disease. This failure fell below the standard of reasonable care applicable to them and was negligence. Defendants also improperly prescribed hydrocodone to a person with classic symptoms of heart disease, increasing Johnny's risk of heart attack. This was also negligent.

14. As a direct and legal cause of the negligence of the Defendants, Johnny Gibson went without timely medical care for his heart disease experiencing pain and suffering, emotional distress and, ultimately, a heart attack and untimely death.

**COUNT II  
WRONGFUL DEATH ACTION FOR BARBARA, JOHN AND DIXIE  
GRIEF, SORROW, LOSS OF SOCIETY AND COMPANIONSHIP AND LOSS OF CONSORTIUM**

15. Plaintiffs incorporate all foregoing paragraphs herein as if fully set forth.

16. Plaintiff Barbara Gibson, as Johnny's surviving wife, suffered and will continue to suffer as a direct and legal result of the negligence of Defendants and Johnny Gibson's death grief, sorrow and loss of consortium.

17. Plaintiffs John Travis Morgan Gibson and Dixie Lee Gibson, as the adult children of Johnny Gibson, suffered and will continue to suffer as a direct and legal result of the negligence of Defendants loss of society and companionship of their father, Johnny Gibson.

**WHEREFOR, Plaintiffs respectfully pray for the following relief:**

1. Economic damages;
2. General damages;

3. Costs and further relief as this Court may deem just and proper.

**DEMAND FOR JURY TRIAL**

Pursuant to Rule 38, M. R. Civ. P., Plaintiff hereby demands a trial by jury of the issues triable by right by jury.

DATED this 19th day of September, 2017.

By: \_\_\_\_\_



John M. Morrison  
MORRISON SHERWOOD WILSON DEOLA PLLP  
*Attorney for Plaintiff*



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**SUMMONS**

**THE STATE OF MONTANA TO THE ABOVE NAMED DEFENDANT,  
CENTRAL MONTANA COMMUNITY HEALTH CENTER:**

You are hereby Summoned to answer the Complaint in this action which is filed in the office of the Clerk of this Court, a copy of which is herewith served upon you, and to file your answer and serve a copy thereof upon the Plaintiffs' attorney within twenty-one (21) days after the date of service of this Summons, exclusive of the day of service; and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the Complaint.

Witness my hand and seal of said Court, this 20<sup>th</sup> day of September, 2017.

CLERK OF COURT

BY:

DEPUTY CLERK

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